

**To:** Michaud, John[Michaud.John@epa.gov]; Feldman, Richard[Feldman.Richard@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]  
**From:** Mitchell, Stacey  
**Sent:** Thur 8/13/2015 10:14:46 PM  
**Subject:** FW: We are getting questions about this claim

FYI.

Stacey H. Mitchell

Deputy General Counsel| Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-7614

**From:** Purchia, Liz  
**Sent:** Thursday, August 13, 2015 4:30 PM  
**To:** Mitchell, Stacey; Distefano, Nichole  
**Subject:** RE: We are getting questions about this claim

This is approved by EOC. I'm going to share with media.

EPA is not offering immediate reimbursements for damages from the Gold King Mine water and it is not true that if someone submits a claim that by doing so they limit or waive future rights.

EPA's Federal Tort Claims Act (FTCA) regulation provides that a person may amend their claim form at any time prior to reaching a settlement with EPA, or before the person files a lawsuit under the FTCA. Additionally, a person claiming an injury or damage has two years from the date of the event to file a claim with EPA under the FTCA. (40 CFR Part 10).

While EPA has made Form 95 available for filing a claim, EPA has also noted on the Region 8 website that:

**"Standard Form 95 is not required to present a claim under the FTCA, but it is a convenient format for supplying the information necessary to bring an FTCA claim.** Please note that a completed form must state a claim for money damages in a "sum certain" amount (that is, a specific amount) claimed for personal injury, death, or injury to or loss of property."

**From:** Mitchell, Stacey  
**Sent:** Thursday, August 13, 2015 3:23 PM  
**To:** Distefano, Nichole; Purchia, Liz  
**Subject:** RE: We are getting questions about this claim

\*\* Begin Response \*\*

**Attorney Client/Ex. 5**

# Attorney Client/Ex. 5

Stacey H. Mitchell

Deputy General Counsel| Office of General Counsel

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**From:** Distefano, Nichole  
**Sent:** Thursday, August 13, 2015 3:15 PM  
**To:** Purchia, Liz; Mitchell, Stacey  
**Subject:** We are getting questions about this claim

"The U.S. Environmental Protection Agency is offering immediate reimbursements for damages from the Gold King Mine water contamination in exchange for waiving rights for future claims."

<http://www.navajonsn.gov/News%20Releases/OPVP/2015/aug/Operation%20To%20Litso.pdf>

Attorney Client/Ex. 5

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